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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,491	09/17/2003	Suzanne E. Schaefer	24180-910000	4842

7590 03/16/2005  
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EXAMINER	
RAYFORD, SANDRA M	
ART UNIT	PAPER NUMBER
1772	

DATE MAILED: 03/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/664,491	SCHAEFER ET AL.	
	Examiner	Art Unit	
	Sandra M. Nolan	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,4-13 and 15-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2-9-04</u> . | 6) <input type="checkbox"/> Other: _____  |

*ze*

## DETAILED ACTION

### *Claims*

1. Claims 1-33 are pending. Claims 3 and 14 are under consideration here.  
Claims 1-2, 4-13, 15-33 are non-elected. See below.

### *Election/Restriction*

2. Claims 24-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 15 December 2004 ("the last response").
3. Claims 1-2, 4-13 and 15-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the last response.
4. This application contains claim 1-2, 4-13, 15-33 drawn to inventions/species nonelected in the last response.

### *Summary of Elected Claims*

5. The claims now before the examiner can be summarized as follows:

Claim 3 covers a substrate laminated to a multilayer structure comprising:

- a coextruded multilayer heat sealant structure comprising:
    - a first layer comprising a thermoplastic material
    - a second layer comprising low density polyethylene (LDPE) next to the first layer
    - a third layer comprising a single-site catalyzed polyethylene,
- wherein the substrate comprises a metallized layer laminated to the first layer.

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Claim 14 covers a package for a product comprising:

- a first substrate laminated to a multilayer structure comprising:
- a coextruded multilayer heat sealant structure comprising:
  - a first layer comprising a thermoplastic material
  - a second layer comprising low density polyethylene (LDPE) next to the first layer
  - a third layer comprising a single-site catalyzed polyethylene,

wherein the substrate comprises a metallized layer laminated to the first layer  
and

-a second substrate laminated to a multilayer structure heat sealed to the first substrate to form a package.

#### ***Information Disclosure Statement***

6. The information disclosure statement (IDS) submitted on 09 February 2004 was considered by the examiner.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 3 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kaschel (US 5,885,707). Kaschel was cited in the IDS.

Kaschel teaches sealable laminated films (title) having an aluminized film layer (col. 6, lines 14-24; claim 6 of patent). The other layers of the film have the structure LDPE/LDPE/LDPE (col. 4, lines 30-36). The LDPE's may be metallocene catalyzed

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ethylenes (col. 4, lines 4-16). The films can be laminated to a wide variety of substrates to form packages for foods and pharmaceuticals (col. 6, lines 14-44).

LDPE's are deemed to be thermoplastic.

9. Claims 3 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Kong et al (US 6,248,442). Kong was cited in the IDS.

Kong teaches multilayer films having outer metallized layers (col. 3, lines 11-13) bonded to PE/LDPE/PE films (claims 1 and 4 of the patent), with PE representing polyethylene and a skin layer containing metallocene catalyzed polyethylene (col. 2, lines 10-13). The films are used with other films to make form, fill and seal packages (col. 3, lines 19-29).

Polyethylenes are deemed to be thermoplastic.

10. Claims 3 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bailey (pregrant publication US002/0071922A1).

Bailey shows, in Figure 1, laminates having metallized film **42**, a polyethylene barrier layer **44**, and a sealing layers **46** (see pars. 0015 through 0017). The sealing layer contains a single site catalyzed polyethylene or LDPE (par. 0016). The films may be laminated to themselves (claim 31 of the patent) to form pouches (claim 25).

Pouches are well known packages.

#### ***Citation as of Interest***

11. Su (US 6,844,078) is cited as of interest for showing LDPE/PP/LDPE/metallized film laminates, in which PP is polypropylene.


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**Conclusion**

Any inquiry concerning this communication should be addressed to Sandra M. Nolan-Rayford, at telephone number 571/272-1495. She can be reached Monday through Thursday, from 6:30 am to 4:00 pm, ET.

If attempts to reach the examiner are unsuccessful, contact her supervisor, Harold Pyon, at 571/272-1498.

The fax number for patent application documents is 703/872-9306.

  
S. M. Nolan-Rayford  
Primary Examiner  
Technology Center 1700

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